

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

LUCKY I. IROMUANYA,)	
)	
Petitioner,)	
)	
v.)	
)	
ROBERT P. HOUSTON, Director of)	
Nebraska Department of Correctional)	
Services,)	
)	
Respondent.)	

4:12CV3091

**MEMORANDUM
AND ORDER**

This matter is before the court on Petitioner's Motion to Extend and Motion to Reconsider Appointment of Counsel (filing no. [25](#)) and Motion for Reconsideration of Court Appointed Counsel (filing no. [26](#)). As the court previously informed Petitioner, "there is neither a constitutional nor statutory right to counsel in habeas proceedings; instead, [appointment of counsel] is committed to the discretion of the trial court." [*McCall v. Benson*, 114 F.3d 754, 756 \(8th Cir. 1997\)](#) (citations omitted). As a general rule, counsel will not be appointed unless the case is unusually complex or the petitioner's ability to investigate and articulate the claims is unusually impaired or an evidentiary hearing is required. See, e.g., [*Morris v. Dormire*, 217 F.3d 556, 558-59 \(8th Cir. 2000\)](#), cert. denied, [531 U.S. 984 \(2000\)](#); [*Hoggard v. Purkett*, 29 F.3d 469, 471 \(8th Cir. 1994\)](#) (citations omitted); see also Rule 8(c) of the [*Rules Governing Section 2254 Cases in the United States District Courts*](#) (requiring appointment of counsel if an evidentiary hearing is warranted). Upon review of the pleadings and Petitioner's Motion, there is no need for the appointment of counsel at this time. However, the court will grant Petitioner's request for an extension of time to file a brief in response to Respondent's Brief.

IT IS THEREFORE ORDERED that:

1. Petitioners Motion to Extend and Motion to Reconsider Appointment of Counsel (filing no. [25](#)) is granted in part and denied in part in accordance with this Memorandum and Order.
2. Petitioner's Motion for Reconsideration of Court Appointed Counsel (filing no. [26](#)) is denied.
3. Petitioner's response brief is due no later than February 14, 2013.

DATED this 15th day of January, 2013.

BY THE COURT:

s/ Joseph F. Bataillon
United States District Judge

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